

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

SAMSON ALDACO,)	CASE NO. 8:09CV177
)	
Petitioner,)	
)	
v.)	MEMORANDUM
)	AND ORDER
)	
ROBERT HOUSTON,)	
)	
Respondent.)	

This matter is before the court on Petitioner's Motion for Leave to Proceed in forma pauperis on appeal. (Filing No. [47](#).) The court has reviewed this Motion pursuant to [28 U.S.C. § 1915\(a\)\(1\)-\(2\)](#).¹ Petitioner's trust account statement shows that he has sufficient funds to pay the appellate filing fee. (Filing No. [3](#).) For this reason, Petitioner's Motion for Leave to Proceed in forma pauperis is denied. See, e.g., [McKnight v. Dinwiddie, No. 09-5152, 2010 WL 257285, at *3 \(10th Cir. Jan. 25, 2010\)](#) (denying motion for leave to proceed in forma pauperis and concluding petitioner had the ability to pay the \$455.00 appellate filing fee where petitioner's institutional account had a balance of \$700.00).

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion for Leave to Proceed in forma pauperis (Filing No. [47](#)) is denied;
2. Petitioner is granted until August 9, 2010, to pay the \$455.00 appellate filing fee. Petitioner is warned that if he fails to pay the appellate filing fee, the court the court will not process his appeal; and

¹The court recognizes that the provisions of [28 U.S.C. § 1915\(b\)](#) do not apply to habeas cases. See [Malave v. Hedrick, 271 F.3d 1139, 1139-40 \(8th Cir. 2001\)](#).

3. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: August 9, 2010: deadline for Petitioner to pay \$455.00 appellate filing fee.

DATED this 9th day of July, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge

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